

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANTHONY FASULO and GAUTUM DESAI,

Index No. 1:19-cv-3741 (PKC)

Plaintiffs,

**WAIVER OF SERVICE**

-against-

XTRADE DIGITAL ASSETS, INC., XTRADE  
DIGITAL HOLDINGS, ALEXANDER KRAVETS  
SERGII GULKO, and JON GIACOBBE

Defendants.

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Mr. Kirsh:

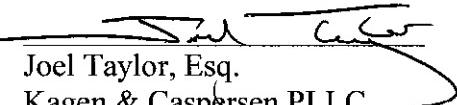
I received your request yesterday morning that Defendants in the above-referenced action, XTrade Digital Assets, Inc., XTRADE Digital holdings, Alexander Kravets, Sergi Gulko and Jon Giacobbe (“Defendants”) waive service of a summons, along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

Defendants hereby agree to save the expense of serving a summons and complaint in this case.

Defendants understand that they will keep all defenses and objections to the lawsuit, the court’s jurisdiction, and the venue of the action, but that they waive any objections to the absence of a summons or of service.

Defendants also understand that they must file and serve an answer or a motion under Rule 12 within 60 days from the date when your request was made. If Defendants fail to do so, a default judgment may be entered against them.

April 30, 2019

  
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*Counsel for Defendants*

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

“Good cause” does not include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant’s property.

If the waiver is signed and returned, you can still make these all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.